

Sample Off-site Exemption Letter

Publication RR-600 June 2005

[Date]

BRRTS #: 07-XX-XXXXXX

[Name and address of person receiving the exemption]

Liability exemption for [soil, sediment and/or groundwater] contaminated by an off-site source of contamination at [property address]

Dear [Name of the person with the exemption]:

Purpose

The Department of Natural Resources ("the Department") has recently reviewed your request for an off-site exemption letter for the property located at [address], which will be referred to in this letter as "the Property." You have requested that the Department determine whether [the owner or lessee] is exempt from ss. 292.11(3), (4) and (7)(b) and (c), Wis. Stats. (commonly known as the "Hazardous Substance Spill Law"), with respect to the existence of a hazardous substance in the [soil, sediment or groundwater] that you believe is migrating onto the Property from an off-site source.

As you are aware, s. 292.13(2), Wis. Stats., requires the Department to issue, upon request, a written determination regarding a liability exemption for a person who possesses or controls property that is contaminated by an off-site source, when certain conditions are met. In order to make this determination, the Department has reviewed information about the Property including [groundwater, soil and/or sediment] sampling data for the Property contained in the following documents: [list titles of reports or information reviewed with dates; list will usually include the "Off-Site Exemption or Liability Clarification Application"].

Background

The Department considered the documents listed above in making the determinations presented in this letter. [A summary of the environmental conditions may be included by the project manager, but is not mandatory.]

Determination

Based upon this information, and in accordance with s. 292.13(2), Wis. Stats., the Department makes the following determinations regarding the presence of [hazardous substance(s) present] contamination in the [soil, sediment and/or groundwater] as indicated by [describe the media impacted and area or location of contaminant's location] on the Property:

1. The hazardous substance discharge originated from a source on property that is not possessed or controlled by [Name of the person with the exemption].
2. [Name] did not possess or control the hazardous substance on the property on which the discharge originated.



3. [Name] did not cause the discharge.
4. [Name] will not have liability under the Hazardous Substance Spill Law for investigation or remediation of the soil, sediment or groundwater contamination originating from off-site onto the Property, provided that [Name] does not take possession or control of the hazardous substance of the property on which the discharge originated.

Exemption Conditions

The Department's determination, as set forth in this letter, is subject to the following conditions being complied with, as specified in ss. 292.13(1) and (1m), Wis. Stats.:

1. The facts upon which the Department based its determination are accurate and do not change.
2. [Name] agrees to allow the following parties to enter the Property to take action to respond to the discharge: the Department and its authorized representatives; any party that possessed or controlled the hazardous substance or caused the discharge; and any consultant or contractor of such a party.
3. With respect to soil or sediment contamination only, [Name] agrees to take one or more specified actions directed by the Department, if the Department determines that the actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment. This would occur after the Department has made a reasonable attempt to notify the party who caused the hazardous substance discharge about that party's responsibilities to investigate and clean up the discharge. [Any known conditions are included here].
4. [Name] agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge.
5. [Name] agrees to any other condition that the Department determines is reasonable and necessary to ensure that the Department and any other authorized party can adequately respond to the discharge. [Any known conditions are included here.]

The Department may revoke the determinations made in this letter if it determines that any of the requirements under ss. 292.13(1) or (1m), Wis. Stats., cease to be met.

Future Property owners are eligible for the exemption under s. 292.13, Wis. Stats., if they meet the requirements listed in that statute section. The determinations in this letter regarding a liability exemption, however, only apply to [Name of the person with the exemption], and may not be transferred or assigned to other parties. The Department will provide a written determination to future owners of this Property, if such a determination is requested in accordance with the requirements of s. 292.13(2), Wis. Stats.

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number for this activity is included at the top of this letter. The Department tracks information on contaminated properties in a Department database that is available on the Internet at <http://dnr.wi.gov/org/aw/rr/>. (See "BRRTS on the web" under "Contaminated Land

Databases".) If you have any questions or concerns regarding this letter, please contact me at [phone number], by email at [firstname.lastname]@dnr.state.wi.us.

Sincerely,

Name & Title
Project Manager